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Q&A With Sheppard Mullin's Ori Katz

Law360, New York (April 04, 2013, 2:34 PM ET) -- Ori Katz is a partner in Sheppard Mullin Richter & Hampton LLP's San Francisco office. He specializes in business bankruptcies and other aspects of insolvency law.

Katz has represented debtors, individual creditors, creditors' committees, parties purchasing assets out of bankruptcy and parties involved in bankruptcy litigation. He has successfully reorganized companies in a wide range of industries, including real estate, retail, construction, biotech, telecommunications, media, agriculture, manufacturing and the Internet. He has also represented lenders in connection with receiverships, loan workouts, foreclosures and borrower bankruptcies, and acted as receivership counsel in connection with various appointments. Katz is a frequent speaker on matters relating to bankruptcy and insolvency law.

Q: What is the most challenging case you have worked on and what made it challenging?

A: I was debtors' counsel to Dillingham Construction Corporation and 10 of its affiliates in connection with their Chapter 11 cases. Founded in 1902, the Dillingham entities operated as general contractors on large-scale construction projects throughout the world. The company traced its early beginnings to the dredging of the entrance to, and the construction of the first dry-docks at, the Pearl Harbor Naval facility in Honolulu. Other notable projects included development of Lake Tahoe Keys, and construction of the Wells Fargo Bank Building in San Francisco and the Little Goose Lock and Dam in Washington State. Dillingham operated as a diversified, publicly traded company until it went private through a series of transactions in 1987. A long period of expansion followed for the company, but with growth came new challenges.

By 2002, a series of management changes and losses had taken their toll. We filed the cases in January 2003 and immediately found ourselves dealing with parties in interest on multiple fronts. Through negotiation with the senior secured creditors, the bonding company, a massive pool of unsecured creditors, project owners, the PBGC, taxing authorities, mechanics' lien holders and others, we consummated Section 363 sales for core portions of the business, followed by confirmation of a Chapter 11 plan that resolved approximately $1 billion in claims and averted disaster for over 20 major construction projects taking place all over the world.

Q: What aspects of your practice area are in need of reform and why?

A: I see a trend toward the use of litigation as the primary and preferred method of resolving disputes in bankruptcy matters. Bankruptcy practice has traditionally been based on consensus-building and deal-making, with litigation on issues being part of the equation once deal making and consensus building proved to be inadequate. Much of the focus on deal-making stems from the reality of limited resources and a quickly shrinking pool of assets. More and more, however, practitioners are relying on litigation alone, and abandoning what many would consider to be the roots of the practice. There are now cases where parties no longer engage in discussions at all because they would prefer to simply make their arguments to the bankruptcy court. That trend, if it continues, will have a negative impact on the bankruptcy system.

Q: What is an important issue or case relevant to your practice area and why?

A: Civility is an important issue. As bankruptcy lawyers, we are under intense pressure to perform under the most challenging of circumstances. In the Chapter 11 business bankruptcy space, we are a relatively small group of repeat players, appearing over and over again before a relatively small group of judges. Civility is what keeps the system working the way it should.

Q: Outside your own firm, name an attorney in your field who has impressed you and explain why.

A: I have always admired James Lopes of Howard Rice. He is one of the deans of the bankruptcy bar in California, a true professional and a remarkable lawyer. I will never forget one of my first bankruptcy court appearances as a first-year associate. Sheppard Mullin was representing a creditor in a large Chapter 11 case and Mr. Lopes was in court representing a similarly situated creditor. I was nervous, but approached Mr. Lopes in the hallway before the hearing to introduce myself and tell him that I thought our clients had a common interest. He was friendly, talkative and agreed that we should support each other during the hearing.

I made my presentation to the bankruptcy court first. Then Mr. Lopes made his argument. He was a phenomenal advocate. What I will never forget is that as he spoke to the court he went out of his way to reference the "good points that Mr. Katz just made" and otherwise build me up. After the hearing he approached me to tell me I had done a good job for my client and he made a comment along the lines of "good thing you were here to help me out." He obviously did not need to say that to a first-year associate and it was clear that he had been the one to lend a helping hand. Years later, he was acting as lead debtor's counsel in the PG&E Chapter 11 cases and we were representing one of the large power producers. In that context, I saw him drive the negotiations and settlements throughout the case. His ability ultimately paved the way for plan confirmation under difficult circumstances. He embodies the balance of civility, deal-making ability, skill, advocacy and professionalism that I strive for in my practice.

Q: What is a mistake you made early in your career and what did you learn from it?

A: In law school, I studied bankruptcy, corporations, secured transactions, trial advocacy and so on. Upon graduation, many law students think they can take on the world and hit the ground running on day one on the job. That is not often the case. Early in our careers, we often need time to adjust to the realities of bankruptcy practice. This means learning about real world problems and real world solutions.